

Chapter 7 Implementation Structure

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Revised
Administrative Draft

1 Acronyms

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| BDCP, the Plan | Bay-Delta Conservation Plan |
| CEQA | California Environmental Quality Act |
| CESA | California Endangered Species Act |
| CFR | Code of Federal Regulations |
| CVP | Central Valley Project |
| Delta Conservancy | Sacramento-San Joaquin Delta Conservancy |
| DFG | California Department of Fish and Game |
| DWR | California Department of Water Resources |
| EIR | environmental impact report |
| EIS | environmental impact statement |
| EPA | U.S. Environmental Protection Agency |
| ESA | federal Endangered Species Act |
| Fish & Game Code | California Fish and Game Code |
| HCP | habitat conservation plan |
| IEP | Interagency Ecological Program |
| NCCP | natural community conservation plan |
| NCCPA | California Natural Community Conservation Planning Act |
| NEPA | National Environmental Policy Act |
| NMFS | National Marine Fisheries Service |
| NOAA | National Oceanographic and Atmospheric Administration |
| Reclamation | Bureau of Reclamation |
| ROA | restoration opportunity area |
| SFWCA | State and Federal Water Contractor Agency |
| State Water Board | State Water Resources Control Board |
| SWP | State Water Project |
| USACE | U.S. Army Corps of Engineers |
| USC | United States Code |
| USFWS | U.S. Fish and Wildlife Service |

Chapter 7 Implementation Structure

[Note to Reader: This is a revised working draft prepared by the BDCP consultants. This document is currently undergoing review by the Department of Water Resources with input from the Department of Fish and Game, U.S. Fish and Wildlife Service, National Marine Fisheries Service, and U.S. Bureau of Reclamation and does not necessarily reflect the position of the state or federal agencies. All members of the public will have an opportunity to provide comments on the public draft of a revised version of this document during the formal public review and comment period. Responses will be prepared only on comments submitted in the formal public review and comment.]

This chapter describes the institutional structure and organizational arrangements that will be established to govern and implement the Bay Delta Conservation Plan (BDCP or the Plan), and sets out the roles, functions, authorities, and responsibilities of the various entities that will participate in Plan implementation. The implementation structure is designed to ensure that sufficient institutional expertise, capacity, resources, and focus are brought to bear to accomplish the goals and objectives of the BDCP, that the entities receiving regulatory authorizations are accountable to those agencies granting the regulatory authorizations, and that the decision-making process regarding the implementation of the Plan is transparent and understandable to the public.

The BDCP implementation structure will help ensure effective and efficient Plan implementation and ongoing compliance with the provisions of the Plan and its associated regulatory authorizations. This approach will also facilitate the clear delineation of roles and responsibilities among the public and private entities participating in the process and help define the nature of their engagement. This approach reflects the commitment to maintain and encourage ongoing collaboration among the parties with an interest in the Delta, and to facilitate adaptive and responsive Plan implementation, guided by new information and scientific understanding.¹

The approaches to Plan governance set out in this chapter have been designed solely to facilitate the implementation of BDCP actions. If, over the course of Plan implementation, matters arise that are outside the scope of the BDCP, any proposed actions related to those new matters may be implemented through the BDCP only upon appropriate modifications and/or amendments to the Plan.

The California Department of Water Resources (DWR), Bureau of Reclamation (Reclamation), and those state and federal water contractors who receive take authorizations for activities covered under the BDCP, will have ultimate responsibility for compliance with the provisions of the BDCP and the associated regulatory authorizations. The implementation of the BDCP, however, will be organized around a newly created BDCP Implementation Office, which will be managed by a Program Manager and governed by the Authorized Entities through the Authorized Entity Group. The U.S. Fish and Wildlife Service (USFWS), National Marine Fisheries Service (NMFS), and California Department of Fish and Game (DFG) (collectively referred to as the state and federal fish and wildlife agencies) will maintain an ongoing role in Plan implementation, including participation in the Permit Oversight Group, to ensure that such implementation proceeds in a manner consistent

¹ Appendix 7.A, *BDCP Implementing Agreement*, includes additional detail regarding the roles and responsibilities of the Authorized Entities, the Implementation Office, and the state and federal fish and wildlife agencies regarding the implementation of the Plan.

with the BDCP and its associated regulatory authorizations. Through the Permit Oversight Group, the state and federal fish and wildlife agencies will be involved in certain specified implementation decisions and will lend technical and scientific expertise to the implementation process. The Authorized Entities will work in a collaborative manner with the fish and wildlife agencies to implement the BDCP. In addition, a Stakeholder Council will be created and regularly convened to enable public agencies, nongovernment organizations, interested parties, and the general public to provide ongoing input into the BDCP implementation process.

The Implementation Office will also coordinate with the Delta Stewardship Council, Delta Science Program, Sacramento-San Joaquin Delta Conservancy (Delta Conservancy), and Delta Protection Commission to ensure appropriate engagement and collaboration on matters of common interest. This approach to Plan implementation is expected to ensure the timely, efficient, and proper implementation of the commitments contained in the BDCP.

7.1 Roles and Responsibilities of Entities Involved in BDCP Implementation

The parties that will be engaged in the implementation of the BDCP recognize that substantial coordination and cooperation between the Permit Oversight Group, the Authorized Entity Group, the Implementation Office, and various stakeholders will be necessary to ensure the overall success of the Plan. As such, these parties will, on an ongoing basis, collaborate on various elements of Plan implementation. The Program Manager, through the Implementation Office and under the direction of the Authorized Entity Group, will manage the implementation of the BDCP and ensure that such implementation proceeds in compliance with the Plan, the Implementing Agreement, and the associated regulatory authorizations. With respect to those state or federal agency functions not subject to assignment or delegation, DWR and Reclamation will each name a designated official to approve and assist in the execution of those functions, in coordination with the Implementation Office.² Various other parties, including the state and federal fish and wildlife agencies, other public agencies, nongovernment organizations, interested parties, and the public will be integral to the process of shaping decisions and effectuating actions set out in the BDCP. This section describes the roles and responsibilities of these parties in the implementation process.

7.1.1 Program Manager

The Program Manager will manage, coordinate, oversee, and report on all aspects of Plan implementation, subject to the oversight of the Authorized Entity Group and the limitations set out in this chapter related to the development, operation, and maintenance of the State Water Project (SWP) and the Central Valley Project (CVP) facilities and the administration of the Adaptive Management and Monitoring Program. The Program Manager will report to the Authorized Entity Group, and act in accordance with the group's direction.

The Program Manager, with the assistance of the Implementation Office staff, will ensure that the BDCP is properly implemented throughout the duration of the Plan. Among other things, the

² The designated state and federal officials will be charged with the responsibility for approving and executing, in coordination with the Implementation Office, those departmental functions that may not be delegated or assigned to other parties.

Program Manager will manage and/or monitor the implementation of implementation actions associated with the protection and restoration of habitat; reduction of ecological stressors; management of conserved habitat; and operation of the water projects, including the development of infrastructure. The Program Manager will also oversee the preparation of annual and 5-year work plans, budgets, and reports; and will implement the public outreach program. As set forth in this chapter, the Program Manager will engage the Authorized Entity Group, the Permit Oversight Group, the Stakeholder Council, and other interested groups and entities in matters related to Plan implementation.

7.1.1.1 Program Manager: Selection and Designation of Staff

The Authorized Entity Group will select the Program Manager. Prior to making its selection, the Authorized Entity Group will take the following actions.

- Solicit qualified candidates for the Program Manager position.
- Consult with the Permit Oversight Group regarding the selection process and the qualifications of the candidates, and invite the Permit Oversight Group to participate in the interview process.
- Confer with the Stakeholder Council regarding the selection process.

The Program Manager will have the following minimum qualifications.

- At least 10 years of experience in the field of natural resources management.
- Experience with complex natural resources issues, including water resources issues.
- Experience with state and federal regulatory processes that affect water and other natural resources that fall within the scope of the BDCP.
- Experience with multi-stakeholder processes.
- Experience with the administration or management of large-scale programs or projects, including experience with budget management.
- Excellent communication skills.

The Program Manager may be retained under the Intergovernmental Personnel Act (5 United States Code [USC] 3371–3375), through personal services contracts, or other appropriate mechanisms.

The specific roles and responsibilities of the Program Manager are described in further detail throughout this chapter.

7.1.1.2 Science Manager: Selection and Function

A position will be established within the Implementation Office for a Science Manager. The Science Manager will be responsible for handling technical and scientific matters on behalf of the Program Manager and will focus on ensuring that decisions related to Plan implementation are guided by the best available scientific information.

The Program Manager will select the Science Manager. Prior to making this selection, the Program Manager will consult with the Authorized Entity Group and the Permit Oversight Group regarding the selection process and the qualifications of the candidates, and invite the Authorized Entity Group and Permit Oversight Group to participate in the interview process. The Program Manager will also confer with the Stakeholder Council on the selection process.

The Science Manager will have the following minimum qualifications.

- Educational and professional background in relevant scientific disciplines.
- At least 10 years of experience in the management of large programs.
- Substantial experience and involvement in the management of large-scale research or monitoring programs.
- Familiarity with water management and ecological issues related to the Delta.
- Excellent communication skills.

The Science Manager will report to the Program Manager and will, among other things, assume the following responsibilities.

- Serve as Chair of the Adaptive Management Team and assist the team in the development and administration of the Adaptive Management and Monitoring Program, in coordination with the Interagency Ecological Program (IEP) and other science programs.
- Serve as a member of the IEP Coordinators.
- Engage in regular communication and coordination with the Delta Science Program and the Independent Science Board, in a manner consistent with California Water Code Section 85820, as well as with other outside scientists and, as directed by the Adaptive Management Team, coordinate or contract with the Independent Science Board, the Delta Science Program, or other scientists to obtain input and review, to support the Adaptive Management and Monitoring Program.
- Support the Program Manager in the preparation of plans, reports and other technical documents.
- Assist in building sufficient scientific capacity and resources within the Implementation Office and the IEP to advance the goals and objectives of the BDCP.
- Assist the Adaptive Management Team in synthesizing and presenting the results of studies and research, compiling the findings of monitoring efforts, and summarizing the current scientific knowledge on relevant Delta resources to the Program Manager, the Authorized Entity Group, Permit Oversight Group, Stakeholder Council, and others.

Matters relating to the conduct of scientific reviews and the solicitation of independent scientific advice to assist in the implementation of the BDCP, including independent science review of adaptive management decisions affecting water operations, will be managed by the Adaptive Management Team, in a manner that ensures their independence and scientific integrity. The Science Manager, as chair of the Adaptive Management Team, will coordinate such efforts with the Delta Science Program, the IEP, the Authorized Entity Group, and the Permit Oversight Group.

7.1.1.3 Implementation Office: Function, Establishment, and Organization

The Program Manager will establish, organize, and direct the Implementation Office. To ensure that the commitments reflected in the BDCP are carried out in a timely and efficient manner, the Program Manager, through the Implementation Office, will institute processes and procedures to adequately address planning, budgeting, sequencing, and scheduling needs related to Plan implementation. Under the direction of the Program Manager, the Implementation Office will

function with a significant level of independence. However, the Program Manager and the Implementation Office staff will work closely with the Authorized Entity Group on a range of matters, particularly with respect to actions that affect water operations, and will be responsive to the Authorized Entity Group, regardless of the entity through which the Program Manager and the Implementation Office staff have established employment relationships. In addition, for those activities involving functions that, under state and federal law, cannot be delegated (e.g., water operations, water contracting, procurement, expenditures of state and federal funds), the Program Manager will coordinate with the appropriate designated state or federal official to ensure that the necessary function is carried out. The Program Manager will also, to the extent appropriate, solicit input from the Stakeholder Council on a range of implementation matters.

Specifically, under the direction of the Program Manager, the Implementation Office will assume responsibility for the implementation of the following broad range of actions.

- Oversight and coordination of administration of program funding and resources.
- Preparation of annual budgets and work plans.
- Establishment of procedures and approaches to implement plan actions.
- Oversight of and/or engagement in the implementation of conservation measures.
- Technical and logistical support to the Adaptive Management Team with respect to the administration of the Adaptive Management and Monitoring Program,
- Coordination with Delta-wide governance entities, including the Delta Stewardship Council, the Delta Science Program, the Delta Protection Commission, and the Delta Conservancy.
- Implementation of public outreach programs.
- Fulfillment of compliance monitoring and reporting requirements, including the preparation of annual reports.

The Implementation Office will not be responsible for the construction or operation of SWP and/or CVP facilities; instead, it will monitor water operations to assemble the information necessary to evaluate and report on compliance with the provisions of the Plan, the Implementing Agreement, and the associated regulatory authorizations, as described in Chapter 6, *Plan Implementation*, Section 6.3, *Planning, Compliance and Progress Reporting*. The BDCP sets out the parameters within which DWR and Reclamation will conduct SWP and CVP operations and infrastructure development. DWR and Reclamation may choose to operate the SWP and CVP and develop new project infrastructure using their current organizational capacity or by contract with other entities.

The Program Manager will fulfill the staffing needs of the Implementation Office by drawing from existing personnel at DWR, Reclamation, State and Federal Water Contract Agency (SFWCA), and from other sources, including from sources outside of agencies, if appropriate and if such personnel possess the expertise and experience necessary to carry out the tasks associated with BDCP implementation. The specific staffing needs of the Implementation Office will be determined by the Program Manager, with input from the Authorized Entity Group and the Permit Oversight Group. Staff assigned to the Implementation Office will act under the direction of the Program Manager. The engagement of personnel from DWR, Reclamation, and other entities, however, will not affect or modify the existing authorities of federal, state, and local agencies or nongovernmental organizations that pertain to personnel matters. Personnel may be retained under the Intergovernmental Personnel Act (5 USC 3371–3375); through personal services contracts, or other

appropriate mechanisms. The Authorized Entities and the fish and wildlife agencies will each designate a lead representative from their respective agencies to serve as liaisons to the Implementation Office.

The Program Manager will budget for, oversee, and coordinate management of the funds and other resources needed to carry out the Program Manager's responsibilities for Plan implementation. The Program Manager will seek to ensure that the funding commitments set out in the BDCP and its Implementing Agreement are being met. Consistent with its respective funding commitments, each of the signatories to the Implementing Agreement will dedicate, hold, and release funds and resources necessary for Plan implementation; will not commingle these funds with other funds or resources of the agency; and will be responsible for all appropriated funds and other funds entrusted to it. Each of these signatories will retain final authority over the expenditure of funds it is required to dedicate for BDCP implementation.

The Implementation Office may enlist other entities to carry out on its behalf actions associated with the BDCP, including implementation of the conservation measures (Section 7.1.8, *Supporting Entities*). Notwithstanding the assignment of such responsibilities, the Implementation Office will be responsible for ensuring that the work is carried out and completed in a manner that complies with the provisions of the BDCP and its associated regulatory authorizations. As part of that responsibility, the Implementation Office will oversee and coordinate the management of contracts with these other entities, in conjunction with the designated state and federal officials as applicable, and monitor and verify the sufficiency of the work.

7.1.1.4 Assignment of Responsibilities

The Authorized Entity Group will assign the Program Manager certain responsibilities concerning the implementation of the BDCP. The Authorized Entity Group will provide the Program Manager with sufficient capacity and capability to execute these responsibilities and effectively implement the BDCP and will explicitly define the scope of responsibilities assigned to the Program Manager.

7.1.1.5 No Delegation of Authority

The assignment of responsibility to the Program Manager and the Implementation Office will not alter or modify existing authorities, mandates, and obligations of the Authorized Entities or any other participating state and federal agency participating in Plan implementation. No general delegation of authority by the Authorized Entities to the Implementation Office, including the Program Manager or to any employee assigned to the Implementation Office will occur, although specific delegation may occur in the event that it is considered by the delegating Authorized Entity to be beneficial to the efficient operation of the Implementation Office. Any such delegation will be conferred, in writing, by the delegating Authorized Entity to the Program Manager, and will be reviewed by that agency from time to time. No unauthorized delegation of state or federal authority to the Program Manager or the Implementation Office will occur.

7.1.2 Entities to Receive Regulatory Authorizations

The BDCP provides the basis for the issuance of regulatory authorizations, under the federal Endangered Species Act (ESA) and the California Natural Community Conservation Planning Act (NCCPA), for the take of certain fish and wildlife species that result from the implementation of covered activities and associated federal actions (Chapter 4, *Covered Activities and Associated*

Federal Actions). Take authorizations will be sought by federal and nonfederal entities under the following authorities.

- Nonfederal entities will seek regulatory coverage pursuant to ESA Section 10(a)(1)(B) and NCCPA Section 2835.
- Federal agencies will seek regulatory coverage under ESA Section 7(a)(2) for federally listed species.

DWR, Reclamation, and those state and federal water contractors that receive take authorizations for activities covered under the BDCP are referred to collectively as the Authorized Entities.

The Authorized Entities will have responsibility for compliance with the provisions of the BDCP and regulatory authorizations, regardless of whether another entity is assigned the responsibility for carrying out a required action. Consistent with their roles and responsibilities under the Plan, the Authorized Entities and the Program Manager may enter into agreements individually, amongst themselves, or with other entities, for the purpose of facilitating the implementation of the BDCP by the Implementation Office. Such agreements will not affect or diminish an Authorized Entity's established authority or control over a covered activity, such as the operation of the SWP and CVP, or any other plan action, as provided by law or pursuant to the BDCP and its Implementing Agreement.

Certain other entities may also obtain take authorizations under the Plan for covered activities other than water operations associated with the SWP or the CVP, as specified in Chapter 4, *Covered Activities and Associated Federal Actions*. Such other entities will be known as Other Authorized Entities.

7.1.2.1 Authorized Entities

The entities identified in this section are anticipated to be Authorized Entities for the purpose of the BDCP and its associated regulatory authorizations. The activities that will be covered under the regulatory authorizations issued to the Authorized Entities are identified and described in Chapter 4, *Covered Activities and Associated Federal Actions*. These activities will be covered under take authorizations issued to the Authorized Entities pursuant to ESA Section 10(a)(1)(B) and Section 2835 of the California Fish and Game Code (Fish & Game Code). Activities that are addressed by the BDCP and carried out by Reclamation are referred to in Chapter 4 as Associated Federal Actions. Those actions are subject to the consultation requirements of ESA Section 7. Reclamation will seek take authorizations under ESA Section 7 for those actions, as well as actions outside the scope of the BDCP related to the coordinated operations of the SWP and CVP.

7.1.2.1.1 California Department of Water Resources

The State of California owns, and DWR manages and operates, the existing SWP Delta facilities, including the Clifton Court Forebay and the Banks Pumping Plant. Pursuant to the BDCP, DWR seeks state and federal regulatory authorizations to continue to operate such facilities. The State of California, through DWR, will construct, own, and operate any new diversion and conveyance facilities described in this plan.

7.1.2.1.2 Bureau of Reclamation

The United States owns, and Reclamation operates, the existing CVP Delta facilities, including the Jones Pumping Plant and the Delta Cross Channel. For Delta operations, the BDCP will provide the basis for the ESA Section 7 consultation on the coordinated long-term operation of the CVP. Reclamation will likely enter into an agreement with DWR to wheel CVP water through a new conveyance facility. Reclamation will not be an applicant for coverage under Section 10 of the ESA. Reclamation's expenditures in furtherance of the Plan will conform to the requirements of federal law.

7.1.2.1.3 SWP and CVP Contractors

The SWP and CVP water contractors receive water under contract from the projects. They will participate in various aspects of the implementation of the BDCP, including the implementation of certain conservation measures. Pursuant to the BDCP, the SWP and CVP contractors will seek permits under Section 10(a)(1)(B) of the ESA and Section 2835 under the NCCPA for covered activities, as set out in Chapter 4, *Covered Activities and Associated Federal Actions*. The water contractors are expected, on an individual basis or through SFWCA, to be Authorized Entities under the Plan. However, the decision whether to grant permits under Section 10 of the ESA resides with USFWS and NMFS and, under NCCPA, with DFG. The status of the water contractors as Authorized Entities will not provide them with any new authority over water project operations decisions or result in the delegation of authority from any state or federal agency. The water contractors may choose to carry out their responsibilities under the BDCP through SFWCA or other appropriate entities.

7.1.2.2 Other Authorized Entities

The BDCP covers certain diversions of water not associated with the SWP or the CVP. These activities are described in Chapter 4, *Covered Activities and Associated Federal Actions*. Take of covered species associated with these activities will be authorized through the state and federal take permits issued to DWR under the BDCP. The entities or individuals that receive such regulatory coverage will be considered Other Authorized Entities. However, these Other Authorized Entities will not be members of the Authorized Entity Group nor will they have a specific role in the governance of the BDCP, other than as potential members of the Stakeholder Council.

7.1.3 Authorized Entity Group

The Authorized Entity Group will be established to provide program oversight and general guidance to the Program Manager regarding the implementation of the Plan. The Authorized Entity Group will consist of the Director of DWR, the Regional Director for Reclamation, and a representative of the participating state contractors and a representative of the participating federal contractors, if they are issued permits pursuant to the Plan. The Authorized Entity Group will be responsible for ensuring that the management and implementation of the BDCP are carried out consistent with its provisions, the Implementing Agreement, and the associated regulatory authorizations.

7.1.3.1 Function

The Authorized Entity Group will provide oversight and direction to the Program Manager on matters concerning the implementation of the BDCP, provide input and guidance on general policy

1 and program-related matters, monitor and assess the effectiveness of the Implementation Office in
2 implementing the Plan, and foster and maintain collaborative and constructive relationships with
3 the State and federal fish and wildlife agencies, other public agencies, stakeholders and other
4 interested parties, and local government throughout the implementation of the BDCP.

5 The Authorized Entity Group will also engage in more specific matters, such as consideration of
6 proposed adaptive management actions and review and approval of an Annual Work Plan and
7 Budget and the Annual Delta Water Operations Plan. The group's review of the work plan and
8 budget will focus primarily on the programmatic aspects of Plan implementation. The Authorized
9 Entity Group will seek the advice and input, and in certain instances review and concurrence, from
10 the Permit Oversight Group and as appropriate, the Stakeholder Council, with respect to these
11 matters. The Program Manager will make the day-to-day decisions necessary to carry out the
12 Annual Work Plan and to otherwise properly implement the BDCP.

13 The Program Manager will organize, convene, and provide support to the Authorized Entity Group
14 and its proceedings,³ including its meetings with the Permit Oversight Group. The Program Manager
15 will further ensure that the Authorized Entity Group receives and reviews all proposed work plans,
16 reports, budgets, and other relevant information generated by the Implementation Office, the state
17 and federal fish and wildlife agencies, the Adaptive Management Team, and other sources. The
18 Program Manager will further ensure that the Authorized Entity Group has sufficient opportunity to
19 provide input regarding these documents.

20 The participation of the Authorized Entities on the Authorized Entity Group will not trigger or
21 otherwise cause a delegation of authority or responsibility for any of the implementation actions
22 described in the BDCP from one Authorized Entity to another or to the Implementation Office.
23 Rather, the specific roles and level of involvement in implementation actions are defined either by
24 existing statutory and regulatory mandates or by provisions set out in this Plan and its associated
25 Implementing Agreement. For many of the implementation actions and commitments, a specific
26 Authorized Entity will have the sole responsibility for implementation; for other actions and
27 commitments established by the Plan, the Authorized Entities may be jointly and severally
28 responsible for their implementation. For instance, the operation of the SWP will remain under the
29 control and responsibility solely of DWR; likewise, the operation of the CVP will continue to be
30 under the control and responsibility of Reclamation. As such, while it is expected that the Authorized
31 Entity Group will express a single position of the group regarding a matter under its consideration,
32 the entity(ies) with statutory or regulatory authority over the matter will make the final
33 determination.

34 The Program Manager will solicit input on the draft Annual Work Plan and Budget from the Permit
35 Oversight Group, the Adaptive Management Team, and the Stakeholder Council, and submit the plan
36 and budget to the Authorized Entity Group for review and approval. As part of this process, the
37 Permit Oversight Group will review the draft plan and provide written concurrence prior to the
38 Authorized Entity Group's approval that the draft accurately sets forth and makes adequate
39 provision for the implementation of the applicable joint decisions of the Authorized Entity Group
40 and the Permit Oversight Group or decisions of an agency within the Permit Oversight Group with
41 authority over the matter (or associated decisions that are rendered through the elevation process).
42 The content of the Annual Work Plan and Budget and the timing of preparation and submission of

³ In the event that the Program Manager position is vacant, then DWR and Reclamation will designate agency staff to serve this role until such time as the position has been filled.

the document to the Authorized Entity Group are described in Chapter 6, *Plan Implementation*, Section 6.3, *Planning, Compliance, and Progress Reporting*.

The Authorized Entity Group will meet on a schedule of its own choosing, but at a minimum, on a quarterly basis. The Authorized Entity Group may also be convened by the Program Manager, as needed, to review issues that arise during the implementation of the Annual Work Plan and Budget. The Program Manager may further request that the group reconvene to consider proposed amendments to the Annual Work Plan and Budget. The Authorized Entity Group will also meet with the Permit Oversight Group (Section 7.1.5, *Permit Oversight Group*), at least on a quarterly basis to review Plan implementation issues, including those related to the adaptive management and monitoring program and the restoration and preservation of habitat.

The Authorized Entity Group will institute procedures with respect to public notice of and access to its meetings and its meetings with the Permit Oversight Group. The date, time, and location of the meetings will be posted on the BDCP website at least 10 days prior to such meetings. The meetings will be held at locations within the City of Sacramento or the legal Delta. All meetings will be open to the public.

7.1.4 DWR and Reclamation: Operation of the SWP and CVP and Preparation of the Annual Delta Water Operations Plan

Implementation of the conservation measures related to water facilities and water operations, as described in *CM1 Water Facilities and Operation* and *CM2 Yolo Bypass Fisheries Enhancement* of Chapter 3, *Conservation Strategy*, will be the responsibility of DWR and Reclamation or entities with whom they may contract. DWR and Reclamation will retain their authority to operate the SWP and the CVP within the parameters of the BDCP and other applicable laws and regulations.

The federal and state operators of the SWP and the CVP will prepare coordinated operation plans for the federal and state projects, including the Annual Delta Water Operations Plan as described in Chapter 6, *Plan Implementation*, Section 6.3, *Planning, Compliance, and Progress Reporting*. DWR and Reclamation will seek input from the Implementation Office, Permit Oversight Group, Adaptive Management Team, and the Stakeholder Council regarding the draft Annual Delta Water Operations Plan. DWR and Reclamation will retain final approval authority over the plan; however, the Permit Oversight Group will, within 30 days of receipt of the draft plan, or as soon as practicable thereafter, review the draft plan and provide written concurrence that the plan is consistent with the provisions of the BDCP, the Implementing Agreement, and the associated regulatory authorizations. If the Permit Oversight Group concludes that the plan is not consistent, it will notify DWR and Reclamation in writing, within the 30-day timeframe, of the specific reasons for its conclusion. In such event, DWR and Reclamation may modify the plan to the satisfaction of the Permit Oversight Group. If they do not, DWR, Reclamation and the Permit Oversight Group will, in a timely manner, meet and confer in an effort to resolve the matter in dispute. If these parties are unable to reach resolution, the elevation process (Section 7.1.7, *Elevation and Review of Implementation Decisions*) may be invoked by any of these parties. The Implementation Office will incorporate, for informational purposes, the final Annual Delta Water Operations Plan into the BDCP Annual Work Plan and Budget (Chapter 6, *Plan Implementation*, Section 6.3, *Planning, Compliance, and Progress Reporting*).

Decisions related to real-time water operations will be the responsibility of the Real Time Response Team, as described in Chapter 3, *Conservation Strategy*.

7.1.5 Permit Oversight Group

The Permit Oversight Group will be composed of the state and federal fish and wildlife agencies, specifically, the Regional Director of USFWS, the Regional Administrator of NMFS, and the Director of DFG or their designees. On the basis of the BDCP, USFWS, NMFS, and DFG are expected to issue regulatory authorizations to the Authorized Entities and Other Authorized Entities pursuant to the federal ESA and the NCCPA, as applicable. Consistent with their authorities under these laws, the fish and wildlife agencies will retain responsibility for monitoring compliance with the BDCP, approving certain implementation actions, and enforcing the provisions of their respective regulatory authorizations. In addition to fulfilling those regulatory responsibilities, the state and federal fish and wildlife agencies will also provide technical input on a range of implementation actions that will be carried out by the Implementation Office. The Permit Oversight Group will not be a separate legal entity nor will it be delegated any authority by the member agencies.

7.1.5.1 Function

To ensure that the BDCP is being properly implemented, the Permit Oversight Group will coordinate agency review of the actions being implemented under the Plan and assessments of compliance with the provisions of the Plan, its Implementing Agreement, and associated regulatory authorizations. The Permit Oversight Group will be involved in certain decisions relating to the implementation of water operations and other conservation measures, actions proposed through the adaptive management program or in response to changed circumstances, approaches to monitoring and scientific research. The Implementation Office will work with the Permit Oversight Group and the Authorized Entity Group to institute mutually agreeable processes to enhance opportunities for such collaboration and engagement.

The Permit Oversight Group will have the following roles, among others, in implementation matters:

- Approve, jointly with the Authorized Entity Group, changes to conservation measures or biological objectives proposed by the Adaptive Management Team (Section 7.1.5, *Permit Oversight Group*).
- Decide, jointly with the Authorized Entity Group, all other adaptive management matters for which concurrence has not been reached by the Adaptive Management Team (Section 7.1.5, *Permit Oversight Group*).
- Role in decision-making regarding real-time operations, consistent with the criteria of *CM1 Water Facilities and Operation* and other limitations set out in the BDCP and annual Delta water operations plans. (The roles of the parties in decision-making regarding real-time operations are still under consideration and will be addressed in Chapter 3, *Conservation Strategy*.)
- Provide input into the selection of the Program Manager and the Science Manager.
- Provide input and concur with the consistency of specified sections of the Annual Work Plan and Budget with the BDCP and with certain agency decisions.
- Provide input and concur with the consistency of the Annual Delta Water Operations Plan with the BDCP.

- Provide input and accept Annual Reports.
- Provide input and approve plan amendments.

The participation of the state and federal fish and wildlife agencies on the Permit Oversight Group will not trigger or otherwise cause a delegation of authority or responsibility for any of their regulatory actions described in the BDCP from one such agency to the Permit Oversight Group or to another Permit Oversight Group agency. Rather, the specific roles and level of involvement in implementation actions are defined by existing statutory and regulatory mandates and by provisions set out in this Plan and its associated Implementing Agreement.

For those actions that are regulatory in nature or require the concurrence and/or approval of the Permit Oversight Group, there will be one written communication, to the maximum extent practicable, relaying the position of the Permit Oversight Group on the issue in question. In developing this communication, the three member agencies will coordinate with each other to evaluate interspecies conflicts and determine actions that meet the needs of all covered species, and they will ensure consistency among the federal agencies and, to the extent possible, among all three agencies in the application of their respective regulatory authority. Subject to the requirements for consistency above, nothing in this section will limit the ability of any Permit Oversight Group agency to exercise its discretion through individual correspondence in circumstances where project operating agency action is imminent and there is not sufficient time to coordinate correspondence. Nothing in the this section will limit application of authorities with respect to necessary Section 7 correspondence related to annual or seasonal operations of the CVP.

7.1.5.2 Participants

7.1.5.2.1 California Department of Fish and Game

DFG is the agency of the State of California authorized to act as trustee for the state's wildlife. DFG administers and enforces the California Endangered Species Act (CESA), the NCCPA, and other provisions of the Fish & Game Code. DFG is authorized to enter into agreements with federal and local governments and other entities for the conservation of species and habitats, to authorize take under CESA and the NCCPA, and to provide regulatory assurances under the NCCPA. As a member of the Permit Oversight Group, DFG will confer, on an ongoing basis, with the Implementation Office and the Authorized Entity Group on various aspects of Plan implementation, including participation in operations decisions, the adaptive management process, and the monitoring and science programs. DFG will also maintain responsibility for plan enforcement, consistent with the NCCPA and other authorities. DFG owns and manages land in the Plan Area, and may, at the request of the Implementation Office, enter into agreements whereby it operates and maintains certain habitat areas that are developed through BDCP habitat preservation and restoration actions. DFG is jointly responsible for implementation of the Ecosystem Restoration Program, which was established to advance ecosystem restoration projects in the San Francisco Bay Delta and its tributaries.

7.1.5.2.2 National Marine Fisheries Service

NMFS is an agency of the U.S. Department of Commerce authorized by Congress to administer and enforce the ESA with respect to marine mammals and certain fish species (including anadromous fish); to enter into agreements with states, local governments, and other entities to conserve federally threatened, endangered, and other species of concern; to authorize incidental take under ESA; and to provide regulatory assurances in accordance with 50 Code of Federal Regulations (CFR)

Section 222.307(g). As a member of the Permit Oversight Group, NMFS will confer, on an ongoing basis, with the Implementation Office and the Authorized Entity Group on BDCP implementation, including participation in the operations decisions and adaptive management processes and the monitoring and science programs. NMFS will also maintain responsibility, jointly with USFWS, for Plan enforcement consistent with the ESA and other authorities. NMFS is jointly responsible for implementation of the Ecosystem Restoration Program, which was established to advance ecosystem restoration projects in the San Francisco Bay Delta and its tributaries.

7.1.5.2.3 U.S. Fish and Wildlife Service

USFWS is an agency of the U.S. Department of the Interior authorized by Congress to administer and enforce the ESA with respect to terrestrial wildlife, certain fish species, insects and plants, to enter into agreements with states, local governments, and other entities to conserve threatened, endangered, and other species of concern, to authorize incidental take under ESA, and to provide regulatory assurances in accordance with 50 CFR Section 17.22(b)(5) and Section 17.32(b)(5). As a member of the Permit Oversight Group, USFWS will confer, on an ongoing basis, with the Implementation Office and the Authorized Entity Group on various aspects of Plan implementation, including participation in operations decisions, the adaptive management process, and the monitoring and science programs. USFWS will also maintain responsibility, jointly with NMFS, for plan enforcement consistent with the ESA and other authorities. USFWS may also, at the request of the Implementation Office, enter into agreements whereby it operates and maintains certain habitat areas that are developed through BDCP habitat preservation and restoration actions. USFWS is jointly responsible for implementation of the Ecosystem Restoration Program, which was established to advance ecosystem restoration projects in the San Francisco Bay Delta and its tributaries.

7.1.6 Adaptive Management Team

The Adaptive Management Team will have primary responsibility for administration of the adaptive management and monitoring program described in Chapter 3, *Conservation Strategy*, Section 3.6, *Adaptive Management and Monitoring Program*, and will decide when and on what terms to seek independent science review to evaluate technical issues for the purpose of supporting adaptive management decision making. The Adaptive Management Team will have primary responsibility for the development of performance measures, proposed changes to conservation measures, and proposed modifications to the biological objectives.

The Adaptive Management Team will be responsible for integrating adaptive management and monitoring activities into one cohesive program. Information obtained from monitoring and research activities will be used by the Adaptive Management Team to develop proposed changes to conservation measures or biological objectives to improve, on an ongoing basis, the outcomes associated with water resource management and ecological restoration commitments reflected in this plan.

The Adaptive Management Team will be chaired by the Science Manager, and will consist of representatives of DWR, Reclamation, DFG, USFWS, and NMFS; the IEP Lead Scientist; a Delta Science Program representative; the SFWCA Science Manager; and the Director of the NOAA Southwest Fisheries Science Center. The directors of DWR and DFG and the regional directors of Reclamation, USFWS, and NMFS will each designate a management-level representative to the Adaptive Management Team who can represent both policy and scientific perspectives on behalf of

their agency, including on matters related to adaptive management proposals and research priorities.

The Adaptive Management Team will operate by consensus.⁴ In the event that consensus is not achieved, the matter will be elevated to the Authorized Entity Group and the Permit Oversight Group for resolution. Any proposed changes to conservation measures or biological objectives will be elevated to the Authorized Entity Group and the Permit Oversight Group for their concurrence or for their own determination regarding the matter. If concurrence is not achieved, the entity or entities with decision-making authority will make a decision, subject to the elevation and review process set forth Section 7.1.7, *Elevation and Review of Implementation Decisions* (and Chapter 3, *Conservation Strategy*, Section 3.6, *Adaptive Management and Monitoring Program*). The Adaptive Management Team may invite individuals or convene subteams consisting of individuals who are not members of the team to provide input into specific issues under consideration. These individuals or groups of individuals may be from the technical staffs of the entities represented on the Adaptive Management Team, the Technical Facilitation Subgroup of the Stakeholder Council, or other entities or institutions, as deemed appropriate by the team. The Adaptive Management Team will also ensure that the Technical Facilitation Subgroup of the Stakeholder Council is afforded sufficient opportunity to provide input into matters under consideration by the Adaptive Management Team.

The Program Manager may request that the Adaptive Management Team provide internal scientific review (internal to the Implementation Office) on specific technical issues of importance to the success of the adaptive management program and the conservation strategy implementation. The Adaptive Management Team will also assess on a regular basis the overall efficacy of the adaptive management program, including the results of effectiveness monitoring, selection of research and adaptive management experiments, and relevance of new scientific information developed by others (e.g., universities, Delta Science Program) to determine whether changes in the implementation of the conservation measures and the monitoring program would improve the effectiveness of the BDCP in achieving its biological goals and objectives.

The Adaptive Management Team will hold public meetings at least quarterly. The Program Manager will institute procedures with respect to public notice of, and access to, these meetings. Other meetings in which changes to biological objectives or conservation measures are being proposed will also be noticed and open to the public. Information considered in developing any proposed actions will be presented in those public meetings.

7.1.7 Elevation and Review of Implementation Decisions

Various entities (e.g., the Authorized Entity Group, Permit Oversight Group, and their member agencies) will be responsible for making decisions to implement the BDCP. With respect to those proposed implementation decisions for which the Authorized Entity Group and the Permit Oversight Group are unable to reach agreement on a matter in which they have joint decision-making authority, or in which a member(s) of the Authorized Entity Group and/or Permit Oversight Group does not agree with the resolution of the matter by the entity with authority over the matter (Section 7.1, the dispute will be resolved pursuant to the following process.

⁴ For the purpose of this section, *consensus* will be considered to be reached if either all members of the Adaptive Management Team agree to the proposal at hand or no member of the team dissents from the proposal.

The Authorized Entity Group and/or the Permit Oversight Group, who may jointly agree to enlist the assistance of the Program Manager and the Science Manager or others as appropriate, will describe the basis for the dispute and options that may be available to assist the parties in seeking resolution. If the matter remains unresolved, the entity with decision-making authority will make a decision. Any member entity of the Authorized Entity Group or the Permit Oversight Group may request review and resolution of the decision at the highest level of the relevant federal department or of the state, up to and including the appropriate department secretary or the Governor of California. Action on any such request will be taken in a manner consistent with standard departmental or state delegation or designation procedures.

[Note to readers: The roles of the parties in decision-making regarding real-time operations are still under consideration and will be address in Chapter 3, Conservation Strategy.]

7.1.8 Other Regulatory Agencies

The BDCP has been developed as a habitat conservation plan pursuant to the ESA and the NCCPA. To implement the BDCP, certain implementation actions will need to conform to the requirements of various other state and federal laws and regulations not specifically addressed by the Plan. Prior to the implementation of many of the implementation actions set out in the BDCP, regulatory authorizations and approvals will need to be obtained from state and federal agencies under applicable laws. To facilitate compliance with these laws and regulations, the Implementation Office will work closely with the appropriate regulatory agencies to plan in advance of future permitting needs and to develop documentation to provide the basis for, and establish processes to expedite, such authorizations.

It is expected that the actions set out in the BDCP are likely to require the involvement of state and federal agencies that administer regulatory programs under the following statutes: California Water Code sections 1000 *et seq.* (water rights), Water Code Sections 13000 *et seq.* (water quality), Fish & Game Code sections 1600 and 5900 *et seq.* (channel modification, fish screens), Clean Water Act Section 401 (water quality) and Section 404 (placement of dredge and fill), Rivers and Harbors Act Section 408 (work on levees), Rivers and Harbors Act Section 10 (navigation), the Migratory Bird Treaty Act (migratory birds), and the Federal Energy Regulatory Act implemented by the Federal Energy Regulatory Commission.

7.1.9 Supporting Entities

The Implementation Office, through the Program Manager, may request that other entities, referred to as Supporting Entities, perform certain implementation tasks, where such entities have the authority, resources, expertise, and willingness to successfully undertake and complete the task. Where specific tasks are so assigned, the Program Manager will ensure that tasks and associated responsibilities are carried out properly and in coordination with other implementation actions. The Authorized Entities may also be Supporting Entities. Other Supporting Entities may include the following entities.

- The Delta Conservancy, which has been designated by statute as a primary state agency to implement ecosystem restoration in the Delta.
- Sponsors of regional conservation planning programs, including those engaged in natural community conservation plan (NCCP) and/or habitat conservation plan (HCP) development or

implementation, or of other similar conservation programs, that overlap or are adjacent to the Plan Area.

- State and federal agencies, including NMFS, USFWS and DFG.
- Other public agencies and private entities that have authority, capacity, or expertise to implement actions described in the conservation strategy in a cost-effective, reliable, and timely manner.

The Program Manager will oversee each Supporting Entity's performance of its responsibility for carrying out a specific task. Decisions by the Program Manager to engage another entity in the implementation of specific plan elements or actions will be accomplished by written contract and will be based on the entity's jurisdictional authority, level of expertise, and its capacity to carry out the element or action in a timely and successful manner. The Program Manager, with the concurrence of the Authorized Entity Group, may terminate a Supporting Entity's role in Plan implementation in the event that the Supporting Entity does not perform a task adequately.

The take authorizations that will be issued pursuant to the BDCP will provide regulatory coverage under the ESA and the NCCPA for all activities covered by the Plan. As such, no additional take authorizations will be required to implement these activities, regardless of whether the action is carried out by the Implementation Office or a supporting entity.

7.1.10 Stakeholder Council

The Stakeholder Council will be formed to provide opportunities for interested parties to consider, discuss, and provide input on matters related to the implementation of the BDCP. The primary purpose of the council is to provide a forum for the stakeholders to assess the implementation of the Plan, and to propose to the Implementation Office ways in which Plan implementation may be improved. The Stakeholder Council will be organized and convened by the Program Manager, who will also serve as a member of the council.

7.1.10.1 Membership

The Stakeholder Council will consist of representatives from entities and organizations with an interest in BDCP-related issues or otherwise engaged in BDCP matters. At a minimum, representatives of the following entities will be invited to participate on the Stakeholder Council.

- Representatives of DWR and Reclamation
- Representatives of SWP and the CVP water contractors
- Representatives of Other Authorized Entities
- Representatives of USFWS, NMFS, and DFG
- Representatives of other state and federal regulatory agencies, including the U.S. Army Corps of Engineers (USACE), the U.S. Environmental Protection Agency (EPA), and State Water Resources Control Board (State Water Board)
- A representative of the Delta Stewardship Council
- A representative of the Delta Protection Commission
- A representative of the Delta Conservancy

- A representative of the Central Valley Flood Protection Board
 - Representatives of San Joaquin, Sacramento, Solano, Yolo, and Contra Costa Counties
- Additional members will be selected from the following categories by the Secretary of the California Natural Resources Agency, in consultation with the directors of the relevant departments of the agency, such as DWR and DFG. The public may submit nominations for these additional members. Each member will serve a term of 4 years, and may be reappointed without limit and may serve until such time as they are replaced.
- At least three representatives from conservation groups with expertise in fish and wildlife management and/or the management of aquatic habitats and other natural lands
 - At least three representatives of local government agencies within the Delta
 - At least one representative of fishing organizations
 - At least one representative of hunting organizations
 - At least one representative of recreation organizations
 - At least two representatives of Delta reclamation districts
 - At least two representatives of Delta agriculture
 - At least three scientists with expertise in the management of natural lands, and native plant and animals species
 - At least one representative of water agencies located in the Sacramento Valley
 - At least one representative of water agencies in the San Joaquin River watershed
 - One representative from organized labor working in the building trades
 - One representative from the exclusive representatives of state-employed scientific or engineering professionals
 - Other stakeholders whose assistance will increase the likelihood of the success of Plan implementation, including delta civic organizations and members of the general public.

7.1.10.2 Function

The Program Manager will convene and facilitate the Stakeholder Council on at least a quarterly basis to exchange information and provide input to the Program Manager concerning the current significant issues at hand. Stakeholders will have the opportunity to inquire about implementation matters, be apprised by the Program Manager of issues of interest, and make recommendations concerning pending decisions and other implementation matters. Stakeholder Council meetings will be open to the public.

For the benefit of the Stakeholder Council members and the general public, the Program Manager will provide information and conduct briefings regarding Plan implementation. Briefings will include presentations of drafts of the Annual Report, Annual Work Plan and Budget, Annual Delta Water Operation Plan, the Annual Delta Water Operations Report, and the 5-Year Implementation Plan, as described in Chapter 6, *Plan Implementation*. In addition, to further facilitate access to information and promote transparency in decision-making, the Implementation Office will maintain a public, on-line data base of key documents and information, such as annual implementation

reports, work plans, and budgets (Chapter 6, *Plan Implementation*, Section 6.3, *Planning, Compliance, and Progress Reporting*).

The Stakeholder Council will develop its own internal organization and process to consider and provide input regarding the various aspects of BDCP implementation, including matters related to work plans and budgets, water operations plans, implementation of conservation measures, adaptive management changes, monitoring and reporting activities, scientific research and review processes, and annual reports. The Technical Facilitation Subgroup will be established to provide input to the Implementation Office and the Adaptive Management Team on technical and scientific matters. The Stakeholder Council process will complement, but not substitute for, ongoing collaboration and communication between stakeholders and the Implementation Office; the Authorized Entity Group, the Permit Oversight Group, and their member entities. The Implementation Office will organize, help convene, and provide support to the Stakeholder Council and its proceedings.

7.1.10.3 Dispute Resolution

With respect to those matters that are considered by the Stakeholder Council, it is expected that the council will make reasonable efforts to provide input to the Program Manager and the Authorized Entity Group that reflects the general agreement of the members. Any member of the council, however, will have the right to object to any proposal of the Program Manager concerning the annual work plans, annual reports, budgets, the acquisition of land and water interests, or the major elements of the adaptive management program, as set out in Chapter 3, *Conservation Strategy*, and Chapter 6, *Plan Implementation*. Any member may also object to any prior implementation action taken by the Program Manager. Any such objections will be made on the basis that the proposed or prior action will not adequately contribute to achievement of the goals and objectives of the BDCP, or is inconsistent with the requirements of the Plan, and/or the permits and authorizations.

In consultation with the Implementation Office, the Stakeholder Council will establish a process for efficient consideration and resolution of any objections that may arise within the council related to Plan implementation. Under that process, a member of the Stakeholder Council may, at its discretion, object to a proposal or prior action related to such implementation. The member may object on behalf of itself or an entity it represents. The council will make reasonable efforts to resolve the dispute by general agreement. The Stakeholder Council will take action on a dispute within 60 days. If the dispute is not resolved within the 60-day period, the issue in dispute will be elevated to the Authorized Entity Group for its consideration. If the issue remains unresolved between the Authorized Entity Group and objecting member(s) of the Stakeholder Council for over 90 days, it will be referred for decision by the entity with the locus of responsibility for the matter in dispute. For this purpose, *locus of responsibility* means primary responsibility to decide the matter, after which the matter will be ripe for implementation, while recognizing that multiple entities may have some relevant responsibility.

For those matters in which the Stakeholder Council has provided input, the position of the council, including any dissenting views, will be conveyed to the Implementation Office in a timely manner. Those position(s) will help inform decisions regarding the specific matter at hand. The objection procedures and dispute resolution process described above provide a means by which issues properly before the Stakeholder Council may be considered by the decision maker with the locus of responsibility for making the final decision with respect to the issue in controversy. This dispute resolution process, however, does not create a legal right nor does it give rise to a right of action

with regards to the members of the Stakeholder Council nor may it be used by any member of the council to delay, or otherwise impede, the proper implementation of the BDCP. The Implementation Office, or other parties responsible for developing proposals or rendering decisions regarding implementation actions, will execute their responsibilities notwithstanding a pending unresolved dispute within the Stakeholder Council.

This process does not substitute for any right or claim which a member of the Stakeholder Council or other entity may have under existing law or contract (e.g., with respect to claims related to private property damage associated with Plan implementation). The process does not create a new right or claim that does not arise under existing law.

7.1.11 General Public

The BDCP implementation process will provide for ongoing and frequent engagement and participation of the public. Other entities with interests in the conservation of Delta resources, may participate in BDCP implementation through the public outreach process coordinated by the Implementation Office (Section 7.5, *Public Outreach*) or through the Stakeholder Council, if eligible for membership. Stakeholder Council meetings will be noticed in advance and open to the public, and will be conducted in a manner that provides adequate opportunity for public comment.

The Implementation Office will also establish a process by which landowners who believe they have been adversely affected by BDCP implementation actions may bring the matter to the attention of the Program Manager. The process will be designed to afford landowners an opportunity to obtain resolution of the matter, such as redress for property damage caused by the actions of public agencies. The process developed by the Implementation Office will be consistent with the requirements of existing claims procedures established by the applicable Authorized Entities and other public agencies for such purposes. Through this process, the Implementation Office can serve as an important resource for landowners seeking timely and efficient disposition of their claims and other grievances. For example, where landowners in the Delta believe that BDCP implementation actions have damaged their property, the Implementation Office will be available to discuss their concerns and provide advice on methods to address their claims, such as assisting the landowner in contacting the appropriate implementing agency to seek resolution of the claim.

7.2 Implementation Office

The Program Manager will direct, oversee, and select staff for the Implementation Office. The Implementation Office, which will not be a legal entity authorized to enter into contracts directly or hold property in its own name, will administer the implementation of the BDCP under the existing authorities of the Authorized Entities. By relying on the legal authorities of the Authorized Entities, the Implementation Office will be equipped with the resources and capacity necessary to carry out BDCP implementation tasks for which it will be responsible. This structure also contemplates that DWR and Reclamation will maintain their historical roles as owners and operators of the SWP and the CVP, but provides flexibility for changing those roles if so directed by Congress, the California Legislature, or through administrative processes.

Proper implementation of the Plan will require a skilled and expert team consisting of administrators, policy-makers, scientists, engineers, data analysts, and regulatory specialists, capable of working together in a cohesive and unified manner. In addition, effective implementation

will necessitate adequate financing of and support for the Implementation Office. The BDCP includes assurances (Chapter 8, *Implementation Costs and Funding Sources*) that sufficient funds will be available to provide the Implementation Office with the capacity and resources to carry out the responsibilities described in this chapter.

Specific implementation tasks may be performed by other entities that have the authority, resources, and expertise to successfully complete the task in a timely manner. These Supporting Entities may include, at the discretion of the Program Manager, water agencies, water contractors, regulatory agencies, nongovernment organizations, or other appropriate entities. Where specific tasks are so assigned, the Program Manager will ensure that that tasks and associated responsibilities are carried out properly and in coordination with other implementation actions. The Supporting Entity will be responsible, subject to oversight by the Program Manager, for entering into the necessary contracts and acquiring interests in real and personal property, in some cases obtaining permits or other authorizations, and taking all other steps needed to complete the implementation task.

The primary functions and responsibilities of the Implementation Office are described in the following subsections.

7.2.1 Establishing Administrative Capacity

The Program Manager will oversee and manage the Implementation Office. The Program Manager will arrange for and equip office space to house the Implementation Office, hire a staff of sufficient size to effectively implement the BDCP, and effectuate contracts (through the authorities of DWR, Reclamation, other state and federal agencies, and/or the SWP and CVP contractors) necessary to build capacity to become fully functional and operational.

The Program Manager, with the consent of and pursuant to agreements with any affected agencies, may enlist current employees of the Authorized Entities, as well as employees of other state, federal, or local agencies, who possess the expertise and experience necessary to carry out the tasks associated with BDCP implementation. The specific staffing needs of the Implementation Office will be determined by the Program Manager. All Implementation Office staff, including staff from entities that are represented on the Authorized Entity Group, will work at the direction of the Program Manager.

7.2.2 Preparing Annual Work Plans and Budgets and Managing Expenditures

The Implementation Office will prepare, on behalf of the Authorized Entity Group, the Annual Work Plan and Budget. The Annual Work Plan and Budget will address matters related to general program administration and Plan implementation.⁵

The Program Manager will solicit input on the draft plan and budget from the Permit Oversight Group and the Stakeholder Council, and submit the plan and budget to the Authorized Entity Group for review and approval. As part of this process, the Permit Oversight Group will review the draft plan and provide written concurrence, within 30 days, or as soon as practicable thereafter, that the

⁵ Annual Delta Water Operations Plans, as developed through the process described in Section 7.1.4, *DWR and Reclamation: Operation of the SWP and CVP*, will be incorporated into the Annual Work Plans.

draft accurately sets forth and makes adequate provision for the implementation of the applicable joint decisions of the Authorized Entity Group and the Permit Oversight Group or decisions of an agency within the Permit Oversight Group with authority over the matter (or associated decisions that are rendered through the elevation process), particularly with respect to matters involving adaptive management and biological monitoring and research. If the Permit Oversight Group concludes that the plan does not do so, it will provide written notification to the Program Manager and the Authorized Entity Group, within the 30 day timeframe, or as soon as practicable thereafter, of the specific reasons for its conclusion. In such event, the Authorized Entity Group may direct the Program Manager to modify the plan to the satisfaction of the Permit Oversight Group. If the Authorized Entity Group does not, the Program Manager, Authorized Entity Group and the Permit Oversight Group will, in a timely manner, meet and confer in an effort to resolve the matter in dispute. If the parties are unable to reach resolution, the elevation and review process described in Section 7.1.7, *Elevation and Review of Implementation Decisions*, may be invoked by any member of the Authorized Entity Group or the Permit Oversight Group.

The Program Manager will establish systems and processes to centralize oversight of implementation budgets and expenditures of funds. The Program Manager will also generally review and oversee budgets and expenditures related to implementation actions carried out by Authorized Entities or Supporting Entities. For those activities involving functions that, under state or federal law, cannot be delegated to the Program Manager, including contracting, procurement, and expenditures of state or federal funds, the Program Manager will coordinate with the appropriate designated state and/or federal official to ensure that the necessary function is properly carried out.

7.2.3 Contracting for Services

The Implementation Office, through an appropriate entity with contracting authority, may contract for services as necessary to implement the BDCP, in a manner consistent with state and/or federal law governing such contracts. Such contracts may be for a range of professional services, including those related to the following matters.

- Acquisition and protection of habitat
- Habitat restoration and management
- Monitoring and scientific research
- Legal and regulatory matters
- Environmental and technical services
- Engineering and construction (e.g., conservation facilities, water facilities, levees)
- Funding and grant agreements pertaining to state and federal programs and executing sub grants to third parties to conduct specific actions
- Operations and maintenance

The Program Manager, in coordination with the appropriate entity, will be responsible for the administration of any such contracts. The Program Manager will coordinate with the appropriate designated contact for the Authorized Entities or designated state or federal official to effectuate the execution, administration and implementation of contracts in support of activities of the Implementation Office.

7.2.4 Securing, Holding, and Managing Funds to Support Implementation Actions

The Program Manager will coordinate the expenditure of funds from state, federal, and other sources that have been dedicated to the implementation of the BDCP. In most instances, DWR and Reclamation will serve as fiscal agents, consistent with their existing agency authorities, for the expenditure of funds by the Implementation Office, from both public and private sources, to support implementation actions. The Program Manager will coordinate with the designated fiscal agents to ensure that sufficient funds are available for implementation actions. The Implementation Office, however, will not be authorized to manage the expenditure of funds related to design, construction, operation, and maintenance of water diversion and conveyance facilities which are or will be elements of the SWP or the CVP.

7.2.5 Coordinating with the Authorized Entities, the Authorized Entity Group, and Supporting Entities

The Program Manager will convene meetings and facilitate communication with the Authorized Entities, Authorized Entity Group, the Permit Oversight Group, and Supporting Entities. The Program Manager will maintain frequent contact with these entities and provide regular updates concerning implementation matters, including progress in meeting BDCP timetables, dissemination of information, and maintenance and availability of BDCP records and reports.

7.2.6 Coordinating with Regulatory Agencies

The Implementation Office will coordinate and confer with the state and federal fish and wildlife agencies, including the Permit Oversight Group, USACE, EPA, State Water Board, and other appropriate regulatory agencies on matters potentially affecting compliance with the provisions of the BDCP, its associated regulatory authorizations, and other regulatory authorizations required to implement BDCP actions. The specific roles of the state and federal fish and wildlife agencies in various implementation actions are described primarily in this chapter and Chapter 3, *Conservation Strategy*. The Program Manager will coordinate and lead meetings convened for such purposes.

7.2.7 Coordinating with the Delta Stewardship Council, Delta Science Program, and Delta Conservancy

The Program Manager will facilitate and monitor the effective and efficient incorporation of the BDCP into the Delta Stewardship Council's Delta Plan (Delta Plan) (California Water Code Section 85320). The Program Manager will ensure that the Delta Stewardship Council receives regular updates on the progress of BDCP implementation, including the status of monitoring programs and adaptive management, as required by California Water Code Section 85320(f). The Implementation Office will also respond to questions or concerns raised by the Delta Stewardship Council regarding the implementation of the BDCP.

The Adaptive Management Team, chaired by the Science Manager, will have primary responsibility for the formulation, design, content, and administration of the Adaptive Management and Monitoring Program described in Chapter 3, *Conservation Strategy*, Section 3.6, *Adaptive Management and Monitoring Program*. The Adaptive Management Team, through the Science

Manager, will coordinate with the Delta Science Program, the IEP Coordinators; the Management, Analysis, and Synthesis Team; and, as necessary, the Delta Independent Science Board (California Water Code Section 85280), regarding matters relating to these monitoring activities and research efforts.

The Implementation Office will further coordinate with the Delta Conservancy as it initiates planning and implementation of ecosystem restoration projects carried out pursuant to the conservation strategy. The Implementation Office and the Delta Conservancy will maintain close coordination on other programs being carried out by the Delta Conservancy that potentially affect implementation actions.

7.2.8 Coordinating with Local Governments, Delta Protection Commission, and Other Public Agencies

The Program Manager will serve as the main point of contact for local, state, and federal agencies interested or engaged in implementation issues. The Program Manager will prepare, publish, and distribute general information about the BDCP to those agencies and represent the BDCP at public meetings convened by cities, counties, water and reclamation districts, and other public agencies with jurisdiction within the Delta. The Program Manager will encourage local government participation on the Stakeholder Council.

Where regional conservation plans overlap with or adjoin the Plan Area, the Implementation Office will collaborate and coordinate with the sponsors of those regional conservation plans on the acquisition and management of habitat lands to be preserved and/or restored in areas common to both plans. The Program Manager will, as appropriate, enlist sponsors of those regional conservation plans and local governments to serve as Supporting Entities to assist in the acquisition and/or management of conservation lands. Where mutually beneficial, the Implementation Office will encourage joint acquisitions of land with local government plan sponsors to realize economies-of-scale and to secure large, contiguous blocks of habitat. The Implementation Office will explore opportunities to fund early conservation actions (i.e., habitat acquisition and/or restoration) that may benefit both the BDCP and other regional conservation plans.

7.2.9 Coordinating with Flood Control Agencies

In the design and implementation of implementation actions that could directly or indirectly affect flood control capabilities, the Implementation Office will coordinate and consult with agencies responsible for flood control in the Plan Area, including USACE, DWR, Central Valley Flood Protection Board, Reclamation districts in the Delta, local flood control agencies, and water districts.

7.2.10 Addressing Legal Matters

The Implementation Office, in coordination with the Authorized Entities, state and federal fish and wildlife agencies, and other appropriate public agencies, will, as appropriate, provide support to entities with the responsibility for handling legal matters that may arise out of the implementation of the BDCP. To the extent permitted by applicable law, the Implementation Office may also use legal counsel, retained by an appropriate entity, to address the range of regulatory matters associated with implementation, including compliance with the BDCP and its Implementing Agreement; compliance with various state and federal laws; transactional and other issues related to land

acquisition; and general, routine, in-house legal matters. No federal funds will be used to retain such counsel.

7.2.11 Overseeing Plan Amendments

In the event that an amendment to the BDCP and its authorizations is necessary, the Implementation Office will be responsible for compiling information and preparing the documentation necessary to support a proposal for such an amendment and for working with the applicable state and federal fish and wildlife agencies to obtain approval. Prior to submitting such documentation, the Program Manager will seek input from the Authorized Entity Group, the Permit Oversight Group, and the Stakeholder Council regarding the issue at hand. As required by law, the applicable fish and wildlife agencies will determine whether proposed amendments will be approved.

7.2.12 Implementing NEPA and CEQA Mitigation Measures

Subject to the approval of the lead agencies conducting the environmental review of the BDCP under the National Environmental Policy Act (NEPA) and/or the California Environmental Quality Act (CEQA) and the concurrence of the Authorized Entity Group, the Implementation Office will effectuate the implementation of some or all of the adopted mitigation measures identified in the mitigation and monitoring plan associated with the environmental documentation for the BDCP. Similarly, the Implementation Office may assume, subject to lead agency approval, responsibility for the implementation of adopted CEQA/NEPA mitigation measures related to the implementation of specific implementation actions. The role of the Implementation Office in implementing such mitigation measures will be limited to those measures associated with either the BDCP environmental impact statement (EIS)/environmental impact report (EIR) or subsequent environmental documentation that is required for implementation actions.

7.3 Implementation of the Conservation Strategy

The Program Manager, through the Implementation Office and on behalf of the Authorized Entities, will generally be responsible for the planning, oversight, and implementation of actions set out in the conservation strategy. Certain components of the conservation strategy, however, will be the responsibility of other Plan participants, including those related to water operations and the Adaptive Management and Monitoring Program (Chapter 3, *Conservation Strategy*, and Chapter 6, *Plan Implementation*). DWR will implement actions associated with construction of *CM1 Water Facilities and Operation*. With respect to water operations-related conservation measures, DWR and Reclamation will coordinate implementation of actions associated with *CM1 Water Facilities and Operations* and water operations aspects of *CM2 Yolo Bypass Fisheries Enhancement*. The Adaptive Management Team, which will be chaired by the Science Manager, will have primary responsibility for administration of the Adaptive Management and Monitoring Program (Chapter 3, *Conservation Strategy*, Section 3.6, *Adaptive Management and Monitoring Program*).

The Program Manager will be afforded sufficient flexibility to use supporting entities, including the Authorized Entities and the state and federal fish and wildlife agencies, to undertake certain actions that enhance the overall effectiveness of the conservation strategy and yield greater efficiencies in Plan implementation.

The tasks and responsibilities of the Implementation Office regarding the implementation of the conservation strategy are described in the subsections below.

7.3.1 Implementation of the Habitat Protection and Restoration Conservation Measures

The Implementation Office will take actions, either directly or through Supporting Entities, to implement conservation measures related to the protection of existing habitat and the enhancement and restoration of habitat within the identified restoration opportunity areas (ROAs) and conservation zones, as well as within other areas in the Plan Area, as described in Chapter 3, *Conservation Strategy*. These measures will largely involve the acquisition of habitat lands, the restoration or enhancement of habitat conditions, and the management and maintenance of habitat lands. The Implementation Office will work with, and may effectuate contracts with, the Delta Conservancy or other Supporting Entities to carry out the conservation measures associated with habitat protection and restoration.

7.3.1.1 Acquisition and/or Lease of Property Interests

Pursuant to the authorities of the Authorized Entities, the Implementation Office will facilitate the acquisitions of interests in real property as part of the implementation of conservation measures associated with the protection and/or restoration of habitat. Similarly, under the direction of the Implementation Office, Supporting Entities that have been selected to help implement such conservation measures may also acquire interests in real property, as described in Chapter 3, *Conservation Strategy*. Interests in land acquired pursuant to the BDCP may be conveyed to the Delta Conservancy, DFG, USFWS, or other Supporting Entities, as appropriate.

The acquisition of fee interest and/or conservation easements, for the purpose of habitat protection, restoration, and creation, will include the following tasks.

- Routine due diligence review of real property
- Biological due diligence to assess habitat/restoration values
- Appraisal of property, including oversight of the appraisal process
- Negotiation and execution of the transaction
- Receipt of title or easement to lands
- Selection of appropriate mechanism or instrument to ensure the protection of conservation lands

The Implementation Office may, through an Authorized Entity or other Supporting Entity, acquire or lease lands or facilities for the purpose of conducting scientific research and monitoring, housing administrative offices and equipment, or undertaking other activities as necessary to administer and implement the measure.

7.3.1.2 Management of Land

The Implementation Office will oversee the management and maintenance of lands acquired for conservation purposes, as described in Chapter 3, *Conservation Strategy*. The Implementation Office

may select Supporting Entities to carry out such management and maintenance activities. Land management will generally include the following tasks.

- Habitat management
- Invasive species control
- Security patrol
- Liaison with neighboring landowners
- Payment of appropriate in lieu fees
- Enforcement of easement terms and conditions
- Mosquito abatement
- Management of vegetation on flood control facilities to maintain flood flow capacity
- Species and habitat monitoring
- Public access management
- Emergency response
- Safety of nearby aircraft operations
- Research activities
- Educational services
- Agricultural easement oversight

7.3.1.3 Maintenance of Facilities and Improvements

The Implementation Office will oversee the maintenance and operation of all facilities and improvements associated with lands acquired for any BDCP purpose, including for the conservation of habitat, as described in Chapter 3, *Conservation Strategy*. The Implementation Office may also oversee the maintenance of facilities and improvements on lands acquired for the purpose of satisfying mitigation obligations adopted through the environmental review process for the BDCP or for specific actions implemented under the Plan.

7.3.1.4 Funding of Activities of Other Entities

The Implementation Office may direct funds to other entities (such as local governments engaged in regional conservation planning processes), subject to the authorities of the Authorized Entities or other participating agencies and under appropriate conditions and oversight, to implement habitat and species conservation efforts that help advance the biological goals and objectives of the BDCP, as described in Chapter 3, *Conservation Strategy*.

7.3.2 Implementation of Water Operations Conservation Measures

Implementation of *CM1 Water Facilities and Operations* and water operations aspects of *CM2 Yolo Bypass Fisheries Enhancement*, as described in Chapter 3, *Conservation Strategy*, will be the responsibility of DWR and Reclamation, consistent with their existing responsibilities and

authorities. The state and federal fish and wildlife agencies, in conjunction with DWR and Reclamation, will participate in real-time operational decisions with respect to certain operational parameters. The nature and scope of such real-time adjustments, as well as the process by which such decisions will be made, are set out in Chapter 3, *Conservation Strategy*.

[Note to readers: The roles of the parties in decision making regarding real-time operations are still under consideration and will be addressed in Chapter 3, Conservation Strategy.]

7.3.2.1 Annual Reporting and Planning for Water Operations

The Implementation Office will provide input to DWR and Reclamation regarding plans and reports related to Delta water operations. The planning and reporting requirements related to water operations are set out in Chapter 6, *Plan Implementation*, Section 6.3, *Planning, Compliance, and Progress Reporting*.

The Annual Delta Water Operations Plan will be prepared by DWR and Reclamation, with input from the Implementation Office, the Permit Oversight Group, the Adaptive Management Team, and the Stakeholder Council. DWR and Reclamation will retain final approval authority over the plan. However, the Permit Oversight Group will, within 30 days of receipt of the draft plan, or as soon thereafter as practicable, review the draft plan and provide written concurrence that the plan is consistent with the provisions of the BDCP, the Implementing Agreement, and the regulatory authorizations, as described in Section 7.1.4, *DWR and Reclamation: Operation of the SWP and CVP*. DWR and Reclamation will also prepare, on an annual basis, with input from the water contractors, the state and federal fish and wildlife agencies, the Implementation Office, and the Stakeholder Council, a Water Operations Report. Among other things, the reports will include a summary of the prior year's operations, including a comparison of the actual operations with planned operations, and an evaluation of the effectiveness of actions for covered fish species and ecological processes, including the responses to real-time operational changes the prior water year's operational effects on covered species. The Annual Delta Water Operations Report will be submitted to the Permit Oversight Group for its acceptance.

The Program Manager will post on the BDCP website the Annual Delta Water Operations Plan and the Annual Delta Water Operations Report, including subsequent revisions to those plans or reports. As part of those postings, the Program Manager will include information, on a daily basis, about planned and actual water diversions, including updates on revisions to the Annual Delta Water Operations Plan that are made through the Seasonal Operations Strategy process. An accounting of actual diversions, including daily, weekly, monthly, and yearly operational levels, will also be posted. The Program Manager will describe and explain operational changes, including departures from planned or anticipated diversion levels, in terms that are understandable to the general public.

7.3.3 Implementation of Other Conservation Measures

The Implementation Office will be responsible for the implementation of other conservation measures, including conservation measures designed to address other stressors, as described in Chapter 3, *Conservation Strategy*. The Implementation Office may implement these other conservation measures either directly or through Supporting Entities, which may receive funds through the Implementation Office to carry out such actions. Supporting Entities, for instance, may help implement other stressor conservation measures that reduce the adverse effects of toxic

contaminants, nonnative predatory species, low dissolved oxygen zones, and entrainment unrelated to covered activities.

7.3.4 Coordination of Adaptive Management and Monitoring Program

[Note to readers: The provisions of this section are still under consideration and will be addressed in Chapter 3, Conservation Strategy. Conforming changes will be made to ensure consistency between this section and Section 3.6, Adaptive Management and Monitoring Program.]

The Adaptive Management Team will have primary responsibility for the overall development, management and oversight of the BDCP adaptive management and monitoring program, as described in Chapter 3, *Conservation Strategy*, Section 3.6, *Adaptive Management and Monitoring Program*. The Adaptive Management Team, through the Science Manager, will coordinate such efforts with the Authorized Entity Group, Permit Oversight Group, Stakeholder Council, the IEP, and Delta Science Program.

The Science Manager will work with the entities identified by the Adaptive Management Team to determine technical staffing needs and other support requirements that will be necessary to adequately implement the biological monitoring program. The Science Manager will enlist the assistance of the IEP in carrying out the monitoring program. The Science Manager will further assist the Adaptive Management Team in the establishment of a framework for the monitoring program (e.g., scope, methodologies, and protocols), in coordination with IEP and the fish and wildlife agencies, Delta Science Program, as appropriate. As part of that effort, the Science Manager will help develop and implement a process for compiling, evaluating, and synthesizing the results of monitoring activities, and will prepare a plan to maintain databases and the results of data analysis obtained through the monitoring program.

The Adaptive Management Team will also manage the BDCP research program, as described in Chapter 3, *Conservation Strategy*, Section 3.6, *Adaptive Management and Monitoring Program*, in coordination with IEP and the Delta Science Program. The Science Manager will help identify research priorities to address specific uncertainties, and will administer a process to select and coordinate researchers who will be involved in the program. In addition, the Science Manager, on behalf of the Adaptive Management Team, will be responsible for the compilation and synthesis of the results of studies and analysis undertaken by other entities and organizations that are assisting in the implementation of the Plan. The Science Manager will also coordinate BDCP funding for research by other entities and organizations, as described in Section 3.6, *Adaptive Management and Monitoring Program*.

The Adaptive Management Team will oversee and commission independent science review, as determined to be necessary, and may enlist the Delta Science Program and Independent Science Board to provide science support and review. As appropriate, the Science Manager will oversee the process of obtaining input and advice from independent scientists through the Delta Science Program and other science programs. Matters relating to the conduct of scientific reviews, and the acquisition of independent scientific advice to assist in the implementation of the BDCP, will be conducted in a manner that ensures their independence and scientific integrity. The Science Manager, on behalf of the Adaptive Management Team, will work with the Lead Scientist for the Delta Science Program and IEP Lead Scientist to ensure that BDCP science activities, reporting, and reviews are coordinated with other science activities being conducted in the Delta.

7.3.4.1 Compliance Monitoring and Reporting

The Program Manager will track implementation actions and carry out the reporting requirements of the Plan, as described in Chapter 6, *Plan Implementation*, Section 6.3, *Planning, Compliance, and Progress Reporting*. Reports prepared by the Implementation Office will include, among other things, the results of monitoring and research efforts undertaken by the Adaptive Management Team and, under its direction, by other parties; assessments of overall plan performance; and an accounting of the distribution and expenditures of funding associated with the various entities engaged in implementation actions. See Section 6.3 for more specific information regarding reporting requirements under the Plan. The Program Manager will ensure that all such reports are posted in a timely manner on the BDCP website.

7.3.5 Management of the Adaptive Management Program

The Adaptive Management Team will have primary responsibility for the administration of the adaptive management program. The Science Manager will chair the Adaptive Management Team, which will work with IEP; the Management, Analysis, and Synthesis Team; and others to assemble, synthesize, and analyze the results of BDCP monitoring efforts and integrate the results of new and relevant scientific research and studies conducted by other parties, including the Delta Science Program. The Science Manager will facilitate discussion and consideration of adaptive management matters by the Adaptive Management Team and will convey any proposed changes to conservation measures or biological objectives, or other adaptive management matters for which the Adaptive Management Team has been unable to reach consensus, to the Program Manager. The Program Manager will forward recommendations by the Adaptive Management Team to the Authorized Entity Group and the Permit Oversight Group.

The Program Manager and Science Manager will ensure the issues related to budget, schedule, and other matters of concern to BDCP implementation and the Authorized Entity Group will be raised to the attention of the Adaptive Management Team and duly considered.

7.3.6 Implementation of Measures in Response to Changed Circumstances

The Permit oversight Group and/or the Implementation Office will be responsible for identifying and responding to changed circumstances, as described in the BDCP, and the Implementation Office will be responsible for implementing the responses set out in the Plan to address those changed circumstances, as described in Chapter 6, *Plan Implementation*, Section 6.4, *Regulatory Assurances, Changed Circumstances, and Unforeseen Circumstances*. The Program Manager will establish a process to ensure timely engagement of the Authorized Entity Group; fish and wildlife agencies, including the Permit Oversight Group; and the Stakeholder Council when a changed circumstance has been identified and a response to such changed circumstances is required.

7.4 Regulatory Compliance Related to BDCP Implementation

The Program Manager, through the Implementation Office, will be responsible for ensuring that the BDCP is properly implemented, including maintaining compliance with the elements of the Plan and the provisions of the associated regulatory authorizations. The Implementation Office, on behalf of the appropriate Authorized Entities, will also identify and take steps to obtain from state and federal agencies any other regulatory permits or authorizations that are necessary to effectuate Plan implementation. To further ensure that the BDCP is properly implemented over time, the Implementation Office will maintain regular contact with the Permit Oversight Group and its member agencies.

7.4.1 Maintaining Permits and Authorizations and Obtaining Amendments

The Implementation Office will establish a process to ensure compliance with the provisions of the BDCP and its associated regulatory authorizations. If amendments or modifications to the BDCP and/or its regulatory authorizations become necessary, the Implementation Office and the responsible Authorized Entities will work with the Permit Oversight Group or the responsible agency to develop the necessary documentation to support such amendments.

7.4.2 Obtaining Additional Regulatory Authorizations

In addition to take authorizations issued under the ESA and the NCCPA, other state and federal regulatory authorizations will be required to implement certain BDCP actions. The Implementation Office will oversee efforts to obtain any such regulatory authorizations that are necessary for the implementation of BDCP actions. The Implementation Office will generally assume responsibility for identifying and preparing the necessary documentation to support the issuance of such regulatory authorizations, unless the applicable Authorized Entity chooses to do so. The Implementation Office may also assign the responsibility to a Supporting Entity to obtain such authorizations.

The EIR/EIS for the BDCP will provide sufficient environmental review and analysis of the proposed adoption of the Plan by DWR, the implementation of CVP-related actions in the Delta undertaken by Reclamation, and the proposed issuance of take authorizations by the state and federal fish and wildlife agencies pursuant to the Plan. The EIR/EIS may also provide sufficient environmental review to support other anticipated federal and state regulatory authorizations necessary for Plan implementation. However, additional NEPA and CEQA review, as well as compliance with other environmental laws, will be necessary for a number of BDCP-related actions.

The Implementation Office may seek, oversee and monitor state and/or federal authorizations, as directed by the Authorized Entity Group. In addition the Implementation Office may conduct appropriate environmental review necessary for the implementation of BDCP conservation measures. In the event that a Supporting Entity assumes responsibility for obtaining such authorizations, the Implementation Office will assist that entity in its efforts. Compliance with the following laws and regulatory processes, among others, will likely be necessary for the following BDCP actions.

- Sections 404 and 401 of the Clean Water Act

- Sections 10 (33 USC 403) and 14 (33 USC 408) of the Rivers & Harbors Act of 1899
- Section 1602 of the Fish & Game Code (Streambed and Lakebed Alteration Agreements)
- Section 106 of the National Historic Preservation Act
- Encroachment permits from the Central Valley Flood Protection Board and Reclamation districts to conduct work on levees
- Federal Energy Regulatory Act compliance through the Federal Energy Regulatory Commission
- NEPA and CEQA, as necessary for certain project-related actions

The Program Manager will be responsible for identifying all such authorizations necessary for Plan implementation and for ensuring that such authorizations have been obtained, consistent with the implementation schedule set out in Chapter 6, *Plan Implementation*.

7.5 Public Outreach

The Implementation Office will implement a public outreach and education program to promote public awareness and provide opportunities for public input on matters concerning Plan implementation. The outreach program will meet the following objectives.

- Promote public awareness of and understanding about the Plan's purpose, specific conservation measures and their implementation.
- Provide streamlined and timely access to information.
- Provide opportunities to engage with decision-makers.
- Maintain a transparent process for understanding, clarifying and addressing public input and comments.

Particular emphasis will be placed on outreach efforts focused on the following stakeholders: Delta residents, including landowners, farmers, and business owners; environmental community; agricultural community; boaters; commercial fishing interests; recreational anglers; local governments; reclamation districts; irrigation districts; public utilities; public and private landowners adjacent to BDCP conservation areas; and Native American tribes.

The public outreach and education program will include the following elements, at a minimum.

- **Informational material.** The preparation and distribution of general information materials such as reports, quarterly electronic newsletters, and issue-specific fact sheets in timely manner so as to facilitate public understanding and meaningful public input.
- **Interactive website.** Development and maintenance of an interactive website that provides real-time access to information, updates regarding implementation activities, and expanded opportunities for public engagement and input. Visual elements such as maps and webcasts will be used to further aid information sharing and public understanding.
- **Speakers bureau** Presentation of BDCP implementation information to various groups and at public meetings that occur throughout the state, as well as targeted audiences, including Delta communities, tribes, and specific statewide stakeholder interests.

- 1 • **Annual public workshops.** Commitment to annual public workshops and others as needed to
2 provide timely opportunities for public dialogue, input and comment regarding a wide range of
3 implementation issues.
- 4 • **Environmental justice.** An environmental justice outreach program will be integrated into
5 overall outreach activities described above to provide minority and low-income communities in
6 and near the Delta with access to information about Plan implementation and opportunities for
7 input. Outreach techniques will include creating and maintaining a dedicated multilingual web
8 page, providing translation services at public workshops and community presentations, and
9 contacting ethnic media outlets.

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